

Off. of Postsecondary Educ., Education

§ 682.404

owed under the repayment schedule in effect when the petition was filed.

(Approved by the Office of Management and Budget under control number 1845-0020)

(Authority: 20 U.S.C. 1070g, 1078, 1078-1, 1078-2, 1078-3, 1082, 1087)

[57 FR 60323, Dec. 18, 1992]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 682.402, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 682.403 Federal advances for claim payments.

(a) The Secretary makes an advance to a guaranty agency that has a reinsurance agreement. The advance may be used only to pay guarantee claims. The Secretary makes an advance to—

(1) A State guaranty agency; or

(2) 1 or more private nonprofit guarantee agencies in a State if, during a fiscal year—

(i) The State does not have a guaranty agency program;

(ii) The Secretary consults the chief executive officer of the State and finds it unlikely that the State will have a program for that year; and

(iii) Each private nonprofit guaranty agency—

(A) Agrees to establish at least 1 office in the State with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State;

(B) Agrees to encourage maximum commercial lender participation within the State and to conduct periodic visits to at least the major lenders within the State;

(C) Agrees that the benefit of its loan guarantees will not be denied to students because of their choice of schools or lack of need; and

(D) Certifies that it is not an institution of higher education and that it does not have any substantial affiliation with an institution of higher education.

(b) A guaranty agency shall apply to the Secretary in order to receive an initial advance.

(c)(1) An advance may be made to a new guaranty agency for each of five consecutive calendar years. A new agency is an agency that entered into a basic agreement on or after October 12,

1976, or that was not actively carrying on a loan guarantee program on or before October 12, 1976.

(2)(i) A guaranty agency may request that the initial advance be made on a specified date. The Secretary pays subsequent advances on the same day that the initial advance was made for each of the four succeeding calendar years.

(ii) An additional advance may be made to a private nonprofit guaranty agency only if the agency continues to qualify under paragraph (a) of this section.

(d) The Secretary makes an advance to a guaranty agency—

(1) On terms and conditions specified in an agreement between the Secretary and the guaranty agency;

(2) To ensure that the agency will fulfill its lender-of-last resort obligation; and

(3) To meet the agency's immediate cash needs and to ensure the uninterrupted payment of claims when the Secretary has terminated the agency's agreement and assumed its functions.

(e) In the case of a private nonprofit guaranty agency, the repayment of advances is determined separately for each State for which the agency has received in advance under this section, in accordance with section 422(c)(4) of the Act.

(f) A guaranty agency shall return advances provided under this section in accordance with the provisions of section 422 of the Act.

(Authority: 20 U.S.C. 1072, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 64 FR 18980, Apr. 16, 1999]

§ 682.404 Federal reinsurance agreement.

(a) *General.* (1) The Secretary may enter into a reinsurance agreement with a guaranty agency that has a basic program agreement. Except as provided in paragraph (b) of this section, under a reinsurance agreement, the Secretary reimburses the guaranty agency for—

(i) 95 percent of its losses on default claim payments to lenders on loans for which the first disbursement is made on or after October 1, 1998;

(ii) 98 percent of its losses on default claim payments to lenders for loans for which the first disbursement is made